

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEDITERRANEAN SHIPPING CO. S.A.
and MEDITERRANEAN SHIPPING CO.
(USA) INC.,

Plaintiff(s),

-against-

SARCONA MANAGEMENT, INC.,

Defendant(s).

07-cv-10325 (Batts)

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
MOTION FOR DEFAULT JUDGMENT

MAHONEY & KEANE, LLP.
Attorneys for Plaintiffs
11 Hanover Square – Tenth Floor
New York, NY 10005

PRELIMINARY STATEMENT

This Memorandum of Law is submitted on behalf of Plaintiffs MEDITERRANEAN SHIPPING CO. S.A. and MEDITERRANEAN SHIPPING CO. (USA) INC. (“MSC”), in support of their Motion for Default against Defendant SARCONA MANAGEMENT, INC. (“SARCONA”) for its failure to answer or otherwise defend Plaintiffs’ claims, and granting Plaintiffs judgment for \$4,274.95.

STATEMENT OF FACTS

For a complete version of the relevant facts please refer to Plaintiffs’ Affidavit in Support of Motion.

ARGUMENT

THIS HONORABLE COURT MUST GRANT PLAINTIFFS’ MOTION FOR DEFAULT JUDGMENT BECAUSE DEFENDANT HAS FAILED TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFFS’ CLAIMS.

Rule 12(a)(1)(A) of the Federal Rules of Civil Procedure provide that “a defendant shall serve an answer within 20 days after being served with the summons and complaint.” Fed. R. Civ. P. §12(a)(1)(A) (2007). Upon failure of a defendant to serve the answer, the court may enter a default judgment against the defendant and in favor of the plaintiff. Fed R. Civ. P. §55.

In the present matter, Plaintiffs commenced an action against Defendant, seeking payment for unpaid per diem detention charges. (Aff. in Supp. at ¶ 4). On November 20, 2007, service of process was effected on Defendant by personally delivering copies of the summons and complaint on Lenny Jones, authorized by appointment or law to receive service of process, at Defendant’s principal place of business. (Id. at ¶ 6). Defendant’s time to answer the complaint has expired. As of today, no answer has been forthcoming from Defendant.

CONCLUSION

WHEREFORE, Plaintiffs, MEDITERRANEAN SHIPPING CO. S.A. and MEDITERRANEAN SHIPPING CO. (USA) INC. respectfully request

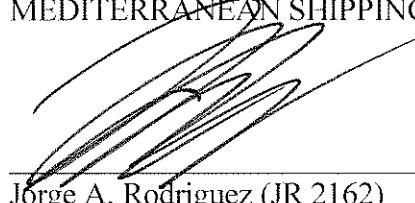
- (1) That this Honorable Court issue an Order granting Plaintiffs' Motion for Default;
- (2) That the Court enter a judgment in favor of Plaintiff for \$4,274.95, constituting the amount demanded, costs and disbursements for this action; and
- (2) For any other and further relief as this Court may deem proper.

Dated: New York, NY

July 16, 2008

MAHONEY & KEANE, LLP
Attorneys for Plaintiff(s)
MEDITERRANEAN SHIPPING CO. S.A. and
MEDITERRANEAN SHIPPING CO. (USA) INC.

By:



Jorge A. Rodriguez (JR 2162)
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New York, New York 10005
Tel (212) 385-1422
Fax (212) 385-1605
Our File No. 12/3490

STATE OF NEW YORK :
: SS.:
COUNTY OF NEW YORK :

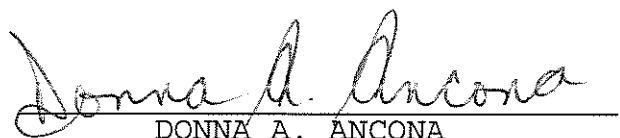
DONNA A. ANCONA, being duly sworn, deposes and says: I am not a party to the action, am over 18 years of age and reside in, Staten Island, N.Y.

On July 16, 2008, I served a true copy of the annexed **MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

TO: STARR, GERN, DAVIDSON & RUBIN, P.C.
Attorneys for Defendant
SARCONA MANAGEMENT, INC.
105 Eisenhower Parkway
Roseland, NJ 07068
Attn: Larry M. Cole, Esq.

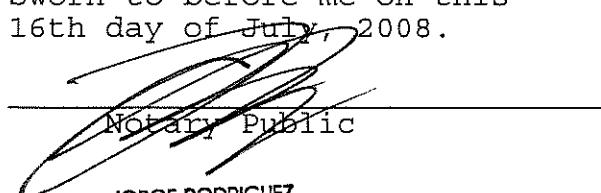
SARCONA MANAGEMENT INC.
60 Jacobus Avenue
South Kearny, NJ 07032

by dispatching said papers, by Federal Express Priority Overnight delivery service.



DONNA A. ANCONA

Sworn to before me on this
16th day of July, 2008.



Notary Public

JORGE RODRIGUEZ
NOTARY PUBLIC

State of New York No. 02RO6128023
Qualified in New York County
Term Expires 06/06/2009

